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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 CHRISTOPHER LEE JENKINS,
12 CDCR #P-73828,

13 Plaintiff,

14 vs.
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16 R.J. DONOVAN, Appeals Coordinator,
17 et al.

18 Defendants.
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Civil No. 09cv0116 L (BLM)

**ORDER DENYING PLAINTIFF'S
MOTION FOR EXTENSION OF
TIME TO AMEND FIRST
AMENDED COMPLAINT AND
DIRECTING CLERK OF COURT
TO CLOSE THE FILE**

[Doc. No. 40]

20 **I. PROCEDURAL HISTORY**

21 Christopher Lee Jenkins ("Plaintiff"), a prisoner currently incarcerated at California
22 Institution for Men in Chino, California, and proceeding pro se, initiated this civil action
23 pursuant to 42 U.S.C. § 1983 on January 12, 2009 in the Eastern District of California. On
24 January 15, 2009, United States Magistrate Judge Edmund F. Brennan found the case lacked
25 proper venue and transferred the matter to the Southern District of California pursuant to 28
26 U.S.C. § 1406(a) [Doc. No. 5].

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1 On January 27, 2009, this Court denied Plaintiff's Motion for leave to proceed *in forma*
2 *pauperis* ("IFP") as insufficient, but granted him time to provide a properly supported IFP
3 application [Doc. No. 8]. Plaintiff then requested, and was granted, an extension of time in
4 which to do so [Doc. Nos. 9, 10].

5 On May 28, 2009, the Court granted Plaintiff's IFP Motion, but dismissed his Complaint
6 sua sponte for failing to state a claim pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A. *See* May
7 28, 2009 Order [Doc. No. 13]. In its Order, the Court identified Plaintiff's pleading deficiencies
8 and provided him leave to amend. *Id.* at 4-7.

9 Plaintiff thereafter requested, and was granted, four separate extensions of time in which
10 to file a First Amended Complaint [Doc. Nos. 14-19, 23-24.] On November 25, 2009, Plaintiff
11 filed his First Amended Complaint, adding new claims and 37 additional Defendants [Doc. No.
12 26]. However, on December 14, 2009, the Court again found Plaintiff failed to state a claim and
13 dismissed his First Amended Complaint pursuant to 28 U.S.C. §§ 1915(e)(2) and § 1915A(b)(1)
14 [Doc. No. 27]. While Plaintiff was once again granted leave to amend, he was cautioned any
15 additional requests for extensions of time would "only be granted for good cause shown." *See*
16 Dec. 14, 2009 Order at 8.

17 Plaintiff thereafter filed, and was granted, two additional requests for extension of time
18 in which to file a Second Amended Complaint [Doc. Nos. 28-29, 31-32]. And, on May 7, 2010,
19 Plaintiff filed what is now his seventh request for an extension of time in which to amend [Doc.
20 No. 33]. This request was again granted by the Court on May 19, 2010 [Doc. No. 34].
21 However, Plaintiff was told that no further extensions of time will be granted absent a showing
22 of "extraordinary circumstances." *See* May 19, 2010 Order at 3. The Court provided Plaintiff
23 with an additional *eleven* weeks to file his Second Amended Complaint. *Id.* Plaintiff was told
24 that he must file this Second Amended Complaint no later than Monday, August 2, 2010. *Id.* at
25 4.

26 Plaintiff was informed that if he failed to file his Second Amended Complaint by August
27 2, 2010, the Court would "enter a final Order of Dismissal without prejudice for failing to state
28 a claim pursuant to 28 U.S.C. § 1915(e)(2) and § 1915A(b)." *Id.* On June 24, 2010, Plaintiff

1 filed a “Motion for Order to Receive Legal Documents and Access to the Courts” [Doc. No. 37].
2 In this Motion, Plaintiff claimed that he needed the Court to send him materials from the Court’s
3 docket because prison officials had confiscated his legal materials.

4 The Court provided Plaintiff with a copy of his First Amended Complaint and the Court’s
5 December 14, 2009 Order dismissing his First Amended Complaint for failing to state a claim.
6 See July 8, 2010 Order at 3. Plaintiff was admonished that he was still obligated to file his
7 Second Amended Complaint by August 2, 2010. *Id.* Instead of filing a Second Amended
8 Complaint, Plaintiff has now filed his *ninth* “Motion for Extension of Time to File First
9 Amended Complaint” [Doc. No. 40].

10 **II. STANDARD OF REVIEW**

11 As noted above, this is Plaintiff’s *ninth* request for an extension of time. In his Motion
12 he claims he discovered that prison officials threw away all of his legal materials when he
13 returned to the Richard J. Donovan Correctional Facility on May 25, 2010. See Pl.’s Mot. at 2.
14 This claim was the basis for his last Motion in which he asked the Court to send him copies of
15 documents filed in the Court’s record. The Court granted this request in early July and sent
16 Plaintiff a copy of his First Amended Complaint and the Court’s December 14, 2009 Order
17 outlining the deficiencies of pleading found in the First Amended Complaint. See July 8, 2010
18 Order at 3. These documents were more than sufficient for the Plaintiff to refer to in submitting
19 a Second Amended Complaint. Plaintiff has now had nearly *eight* months to draft a Second
20 Amended Complaint to comply with the Court’s December 14, 2009 Order. Plaintiff was
21 informed that only in *extraordinary* circumstances would the Court grant another extension of
22 time. He has failed to demonstrate any extraordinary circumstances that would prevent him from
23 complying with all of the Court’s previous Orders. *Cf. Efau v. Williams*, 473 F.3d 1038, 1041
24 (9th Cir. 2007) (noting that while a court’s discretion in extending time [under FED.R.CIV.P.
25 4(m)] is broad, a plaintiff’s protracted and repeated requests for extension of time must end
26 somewhere, for “no court has ruled that the discretion is limitless.”).

27 Accordingly, Plaintiff’s Motion for Extension of Time to File Second Amended
28 Complaint is **DENIED**.


1 **III. CONCLUSION AND ORDER**

2 Plaintiff's Motion for Extension of Time to Amend First Amended Complaint is
3 **DENIED** [Doc. No. 40]. Pursuant to the Court's May 19, 2010 and July 8, 2010 Orders, the
4 entire action is **DISMISSED**, without prejudice, for failing to state a claim pursuant to 28 U.S.C.
5 § 1915(e)(2) and § 1915A(b) and for failing to comply with the Court's Orders.

6 The Clerk of Court is directed to close the file.

7 **IT IS SO ORDERED.**

8 DATED: August 10, 2010

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10 M. James Lorenz
11 United States District Court Judge
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